GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORADUM

TO: Board of Zoning Adjustments

FROM: Andrew Altman, Director
Office of Planning

DATE: December 31, 2001

SUBJECT: Waiver of Rules for Late Submittal of Final Report on Case No. 16597

The attached Final Report concerning the application for the Variance Requests located at 623 Mellon Street, NE is being submitted less than 7 days prior to the Board of Zoning Adjustment's consideration of the item and scheduled public hearing. The Office of Planning respectfully requests that the Board waive its rule and accept the report into the record.

Attachments

AA/jm

BZA
Case No. 16597
Exhibit No. 47

Board of Zoning Adjustment
District of Columbia
CASE NO.16597
EXHIBIT NO.47

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

Memorandum

TO: Board of Zoning Adjustment

FROM: Andrew Altman, Director
Office of Planning

DATE: December 28, 2001

SUBJECT: BZA Application #16597 (Elaine Carrera)
623 Mellon Street, N.E. (Square 5984, Lot 37)

APPLICATION

The application by Elaine Carrera (Applicant) requests, pursuant to 11 DCMR 3103.2, an area variance from the provision of Section 2500.4 that limits the height of accessory buildings to one (1) story or fifteen feet, a use variance from the provision of Section 2500.5 which limits use to domestics employed by the family in the principal building, and from Section 2500.6 that require that two story accessory buildings not be within the required rear yard and meet the required setback from all required side yards.

PROPOSAL

The applicant operates a Community Based Residential Facility (CBRF) for handicapped persons in the main structure on the property. The application proposes to add a second floor to the existing garage to enable the applicant to live on-site. This addition will increase the height of the building from 10 feet 8 inches to 19-1/2 feet.

SUMMARY RECOMMENDATION

The Office of Planning is unable to make a recommendation on the required variances, as sufficient information was not provided to determine if the application meets the requirements of Section 2500.3. The applicant has stated that the required information is not available at this time and that she will be requesting additional time to make the information available. OP will submit a supplemental report prior to the public hearing if additional information is provided. Shy of complete information, OP cannot recommend approval of the variances.

SITE AND AREA DESCRIPTION

The subject property located at 630 Mellon Street, S.E. (Square1230, Lot 809) is generally bounded by Mellon Street to the north, Martin Luther King, Jr. Avenue to the east, Newcomb Street to the south, and 5th Street to the west. The square is divided in an east-west direction by an 18-foot wide alley that runs along the rear of the subject site. The property is developed with a two-story plus basement, single-family detached house and a 2-car garage to the rear of the property. The garage is currently being used for storage. (Attachment 1)

The subject property is within the Congress Heights community that has a mixture of single-family detached houses, single-family semi-detached houses, and 2- and 3-story apartments. The area surrounding the subject site is developed with a mixture of apartments, single-family duplexes, and single-family attached residences. Some of the single-family residences have been converted to rental units. Martin Luther King, Jr. Avenue that is east of the site is a commercial area that is developed with neighborhood serving retail uses. The site is a few blocks south of the St. Elizabeth's Hospital.

ZONING REQUIREMENTS

The subject site is in the R-5-A district that is designed for detached, semi-detached, and low-density general residential uses such as row houses, flats, and apartments. Additionally, the R-5-A regulations permit residential flexibility and institutional and semi-public buildings that are compatible with adjoining residential uses. This house and garage were constructed prior to the implementation of the modern Zoning Regulations. However, the property conforms to all the yard requirements of the R-5-A District. The garage is a one-story structure and has a height of 10 feet 8 inches. The proposal to add an additional story to the garage will increase its height to 19.5 feet.

ANALYSIS

The main structure on the property is a house that is used a CBRF, which is a permitted use in the R-5-A District. This CBRF houses 11 mentally handicapped persons most of which are above 70 years old. These residents were former patients at the St. Elizabeth's Hospital but were released into a group home setting. The residents are picked up and taken from the home for treatments and other activities between 8:00 and 10:00 AM in the mornings and return between 3:00 and 4:00 PM in the evenings. The CBRF is staffed by 3 persons and the applicant is one of the staff members but does not live on the property. The house has 7 bedrooms 6 of which are for the residents and 1 room for an on-site staff member. The applicant arrives between 6:00 and 7:00 AM to relieve the overnight staff who departs at 7:00 AM. As the applicant has gotten older, she has been afflicted with an illness that affects her ability to walk long distances. The applicant states that she arrives at the home early in the morning and due to the many incidences of violence in the area she is

concerned for her safety especially during the fall and winter months when the daylight hours are shorter and she arrives and departs the home when it is dark.

In order to continue serving the residents of the facility, and lessen concerns for her safety, the applicant would like to begin living on the property. However, the existing house is unable to accommodate her because residents of the home occupy all the rooms and one is reserved for overnight staff. The applicant is therefore proposing a second story addition to the garage at the rear of the property to be used as an apartment and her private residence.

Compliance with Section 2500.4

Section 2500.4 requires the accessory buildings be limited to 1-story or 15 feet. The application request a variance to allow the building to be expanded to 2-stories and 19.5feet. The following demonstrates how these standards of Section 3103.2 are met:

> **The property is unique by reason of its exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situation or condition;**

The property is unique due to the exceptional situation that the house has been used as a CBRF for approximately 37 years and has additional requirements specific to CBRF's unlike the other single-family houses in the community.

> **By reason of the aforementioned unique or exceptional condition of the property, the strict application of the Zoning Regulations will result in peculiar and exceptional practical difficulties or to exceptional and undue hardship upon the owner of the property.**

The CBRF requires that staff be available to serve the residents. In order for the applicant to continue to serve the residents and address her health and safety concerns, she desires to live on the property. Currently, the house is unable to accommodate another person. Accommodation could only be accomplished by reducing the number of residents or make an addition to the existing house. Neither of these options is feasible, as both would create exceptional practical difficulties or undue hardship on the applicant. There would need to be a great reduction in the number of residents to provide enough space for her privacy and security as a non-patient resident. This would lead to a loss of income. Secondly, expanding the existing house would not be possible due to the limited amount of yard space. The applicant therefore has proposed to add a second floor addition to the parking garage to accommodate her on-site residential needs.

> **The variance will not cause substantial detriment to the public good and will not impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.**

Most of the rear yards along the alley are not well kept. The expansion of the garage will allow for the renovation of the existing garage that is currently in need of repairs. The additional story which causes an increase of 4.5 feet over the 15 feet height limit will not impair the intent of the Zoning Regulations and Map as the addition of a floor above the existing garage will not block the light and air to adjacent properties, and the property is zoned R-5-A which anticipates more than one dwelling. Additionally, the applicant is providing a service to the community by providing accommodations for mentally handicapped persons. If the applicant cannot live on the property for her health and safety reasons, then she may be forced to greatly reduce the number of residents or close the facility, which would be a detriment to the community.

Compliance with Section 2500.5

Section 2500.5 requires that 2nd story uses in accessory buildings be limited to domestics employed by the family in the principal building. A use variance for this use is therefore required. The following demonstrates how these standards of Section 3103.2 are met:

> **The property is unique by reason of its exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situation or condition;**

The property is unique due to the exceptional situation that the main structure on the property is not a single-family dwelling but a CBRF which houses unrelated persons and the applicant is a caregiver to the residents.

> **By reason of the aforementioned unique or exceptional condition of the property, the strict application of the Zoning Regulations will result in peculiar and exceptional practical difficulties or to exceptional and undue hardship upon the owner of the property.**

Due to the uniqueness of the property being a CBRF in this community, the application is unable to meet the requirement of the Zoning Regulation for a standard multi-unit residential or apartment building within the R-5-A zone. To meet these requirements would place an undue hardship on the applicant because the building is licensed for a maximum population as a group home CBRF. This CBRF group home status directs that the house be one living environment. She is unable to move into the house as it is already occupied to its full capacity. She could only live in the house if she drastically reduces the number of residents or make an addition to the existing house. Either of these scenarios would be a hardship to her ability to live as a private dwelling within the CBRF or would be a hardship for the CBRF residents who would be reduced in number and living space.

Additionally, expanding onto the house is severely restricted by the yard requirements, would result in a substantial reduction in the available rear yard and would increase the lot occupancy that is already diminished by a 15-foot easement at the front of the property. The applicant therefore has proposed to add a second floor addition to the existing rear parking garage to accommodate her on-site residential needs and avoid any reduction in the residential space for the CBRF residents.

The variance will not cause substantial detriment to the public good and will not impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Having a CBRF staff member living in the second story will not be detrimental to the community. It will in fact provide additional activity along the alley and provide additional security for the property with an additional person on site at nights. Additionally, the applicant is considered a member of the CBRF staff that serves the residents of the house and therefore meets the intent, purpose, and integrity of the Zoning Regulations to allow only domestics housing on the second floor of accessory buildings. Further, the R-5 district allows multiple dwellings on a single lot and encourages flexibility in order to accommodate institutional uses that are compatible with the surrounding uses.

Compliance with Section 2500.6

Section 2500.6 requires that if the second story use is allowed under Section 2500.5, the structure cannot be within the required 20-feet rear yard and must meet the side yard setback. The following demonstrates how these standards of Section 3103.2 are met:

The property is unique by reason of its exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situation or condition;

The property is unique due to the exceptional situation that the garage was constructed prior to the enactment of the current Zoning Regulations and as a result in non-conforming.

By reason of the aforementioned unique or exceptional condition of the property, the strict application of the Zoning Regulations will result in peculiar and exceptional practical difficulties or to exceptional and undue hardship upon the owner of the property.

The garage has existed in this location for a very long time and to meet the setback requirements of the current zoning regulations would present practical difficulties to the applicant because it could only be achieved through the demolition of the existing garage which would be an exceptional result.

The variance will not cause substantial detriment to the public good and will not impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Granting a variance from the yard setbacks will not be detrimental to the community as the garage has been in the current location for a very long time and has not been a problem. The second floor addition will not further intrude into the existing rear and side yards and therefore the existing situation will not change. The intent and purpose of side and rear yard setbacks is to provide adequate light and air to all the buildings in the area. Even with the proposed additional height, light and air to adjacent buildings will not be affected and therefore the integrity of the Zoning Regulations will be maintained.

Memorandum of November 22, 2001

In a memo dated November 22, 2001 the Office of Zoning outlined additional variances that may be required. Although OP was copied in the memo we were not in receipt of the memo until December 10, 2001. Following review of this memo OP requested additional information from the applicant who stated that she intends to request an extension of the hearing in order to have sufficient time to provide the requested information and address the variances outlined in the November 22, 2001 memo. Additionally, OP would like to have further consultation with the Office of Zoning and the Zoning Administrator to clarify the needed information.

COMMUNITY COMMENTS

ANC-8C reviewed the proposal at their September 6, 2000 meeting and recommended approval of the application. No further action has been taken since subsequent changes to the application.

SUMMARY AND RECOMMENDATION

The CBRF is a unique use within the community, is uniquely located near the Saint Elizabeth's Hospital and has provided a long term service to the community. The proposed expansion to the garage at the rear of the property will not be a detriment to the community and may in-fact encourage other property owners to improve their rear yards.

The Office of Planning is unable to make a recommendation at this time, as sufficient information has not yet been provided to assess the application. The applicant has stated that she will be requesting additional time to make the information available. OP will therefore reserve its recommendation until the information is available at which time OP will submit a supplemental report prior to the public hearing.

Attachments:

1. Site Location

AA/mbr

BZA 16597
623 Mellon Street, S.E.



0.1 0 0.1 0.2 Miles

N
W E
S

Zoning Boundaries
Street Centerlines